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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,835	12/13/2000	Vernon Keith Boland	8598	5833

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EXAMINER

BORISOV, IGOR N

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 04/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/735,835	BOLAND ET AL.
	Examiner	Art Unit
	Igor Borissov	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 13 December 2000.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-12 are rejected under 35 U.S.C. 101 because the claimed method for referring postings does not recite a useful, concrete and tangible result under *In re Alappat*, 31 USPQ2d 1545 (Fed. Cir. 1994) and *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 47 USPQ2d 1596 (Fed. Cir. 1998). The independently claimed steps of: storing historical interaction data; receiving a communication from the consumer; accessing historical interaction data; and processing the historical interaction data are abstract ideas which can be performed mentally without interaction of a physical structure or are mere data storage devices that do not implement a useful, concrete and tangible result of a machine. Because the independently claimed invention is directed to an abstract idea which does not produce a useful, concrete and tangible result, those claims and claims depending from them, are not permitted under 35 USC 101 as being related to non-statutory subject matter. However, in order to consider those claims in light of the prior art, examiner will assume that those claims recite statutorily permitted subject matter.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 8-11 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Nonaka et al. (US 5,485,544).

Nonaka et al. teach a system and method for history sensitive help control, comprising:

As per claims 1-3, 6, 8-10, 18 and 20,

- storing historical interaction data between a consumer and a business, the historical interaction data regarding interactions between the business and the consumer (Abstract; column 1, line 65 through column 2, line 36; column 3, lines 31-65; column 4, lines 20-55; column 9, lines 40-54);

- receiving a communication from the consumer (Abstract; column 1, line 65 through column 2, line 36; column 3, lines 31-65; column 4, lines 20-55; column 9, lines 40-54);

- accessing historical interaction data regarding the consumer (Abstract; column 1, line 65 through column 2, line 36; column 3, lines 31-65; column 4, lines 20-55; column 9, lines 40-54);

- processing the historical interaction data regarding the consumer in view of the received communication from the consumer to establish a context of the received communication from the consumer (Abstract; column 1, line 65 through column 2, line 36; column 3, lines 31-65; column 4, lines 20-55; column 9, lines 40-54).

As per claims 4, 11 and 19, said system and method, further comprising the step of: presenting the historical interaction data to the consumer (Abstract; column 1, line 65

through column 2, line 36; column 3, lines 31-65; column 4, lines 20-55; column 9, lines 40-54).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nonaka et al.

As per claims 5 and 12, Nonaka et al. teach all the limitations of claims 5 and 12, except that the data, presented to the consumer, is in actionable format.

It would have been an obvious matter of design choice at the time the invention was made to modify Nonaka et al. to include that the data, presented to the consumer, is in actionable format, because it appears that the claimed features do not distinguish the invention over similar features in the prior art, and the teachings of Nonaka et al. would perform the invention as claimed by the applicant with any type of format.

Claims 7 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nonaka et al. in view of Garrett (US 6,473,738).

As per claims 7 and 13-17, Nonaka et al. teach all the limitations of claims 7 and 13-17, except for receiving an e-mail from a consumer terminal having consumer ID data and consumer Internet session history data regarding an Internet site of the business.

Garrett teaches a system and method for multiple-person buying information arrangement with application to on-line merchandizing, comprising receiving an e-mail from a consumer terminal having consumer name, address and PIN number, and consumer on-line session history data regarding a merchandise site of the business (Figs. 1-5, 8-12; column 5, line 25 through column 6, line 58; column 7, line 39 through column 8, line 56; column 13, lines 23-33).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nonaka et al. to include receiving an e-mail from a consumer terminal having consumer ID data and consumer Internet session history data regarding an Internet site of the business, because it would allow to use said system and method for remotely purchasing goods over the Internet.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308- 2702.

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks  
Washington D.C. 20231**

or faxed to:

**(703) 305-7687** [Official communications; including  
After Final communications labeled  
"Box AF"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal  
Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

  
J.G. WEISS

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SUPERVISORY PATENT EXAMINER  
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